



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA FACSIMILE & FIRST CLASS MAIL
(202) 420-2201

MAR - 5 2015

Scott Thomas, Esq.
Dickstein Shapiro LLP
1825 Eye Street N.W.
Washington, DC 20006-5403

RE: MUR 6889
Eric Byer

Dear Mr. Thomas:

On March 3, 2015, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on behalf of your client, Eric Byer, in settlement of violations of 52 U.S.C. §§ 30118(a) and 30122 (formerly 2 U.S.C. §§ 441b(a) and 441f) and 11 C.F.R. §§ 110.4(b)(1)(ii) and 114.2(e), provisions of the Federal Election Campaign Act of 1971, as amended and Commission regulations. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 52 U.S.C. § 30109(a)(4)(B) (formerly 2 U.S.C. § 437g(a)(4)(B)).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink that reads "Kimberly D. Hart".

Kimberly D. Hart
Attorney

Enclosure
Conciliation Agreement

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FEDERAL ELECTION
COMMISSION

2015 JAN 15 AM 9:14

MUR 6889 OFFICE OF GENERAL
COUNSEL

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)

4 Eric Byer)

5 **CONCILIATION AGREEMENT**

6
7 This matter was initiated by *sua sponte* submission made to the Federal Election
8 Commission ("the Commission") by Respondent Eric Byer ("Byer") and information ascertained
9 by the Commission in the normal course of carrying out its supervisory responsibilities. The
10 Commission found reason to believe that Byer violated 52 U.S.C. §§ 30118(a) (formerly
11 2 U.S.C. § 441b(a))¹ and 30122 (formerly 2 U.S.C. § 441f) and 11 C.F.R. §§ 110.4(b)(1)(ii) and
12 114.2(e).

13 NOW, THEREFORE, the Commission and the Respondent, having participated in
14 informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree
15 as follows:

16 I. The Commission has jurisdiction over the Respondent and the subject matter of
17 this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C.
18 § 30109(a)(4)(A)(i) (formerly 2 U.S.C. § 437g(a)(4)(A)(i)).

19 II. Respondent has had a reasonable opportunity to demonstrate that no action should
20 be taken in this matter.

21 III. Respondent enters voluntarily into this agreement with the Commission.

22 IV. The pertinent facts in this matter are as follows:

¹ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act") was transferred from Title 2 of the United States Code to new Title 52 of the United States Code.

1 1. NATA is a national incorporated membership organization (trade association)
2 representing aviation business service providers. NATA is governed by a Board of Directors and
3 its day-to-day operations are handled by its president, officers, and staff.

4 2. NATA PAC is its separate segregated fund ("SSF") and is registered with the
5 Commission as an unauthorized, qualified non-party committee. Jason Miller is NATA PAC's
6 current treasurer. Michael Delk ("Delk") was NATA PAC's former treasurer from 1998 to July
7 2013.

8 3. Alan Darrow, former Vice-President of Administration of NATA, ("Darrow")
9 was the Assistant Treasurer of NATA PAC from 2001 to 2002.

10 4. Byer is the former Vice-President of Government & Industry Affairs of NATA
11 and was also the Assistant Treasurer of NATA PAC from 2003 to 2012.

12 5. In 2001, as Congress began to consider a reauthorization bill for the Federal
13 Aviation Administration, Byer and Darrow met to discuss NATA PAC participation. During the
14 meeting, they considered whether to pay employees extra compensation that could be diverted
15 through payroll deductions to the PAC.

16 6. In July 2001, the Chair of NATA and NATA PAC presented the NATA Board of
17 Directors with a recommendation to reimburse NATA employees for their contributions to
18 NATA PAC. The Board approved that recommendation and recorded it in the meeting minutes
19 as follows: "The Board agreed with a recommendation . . . that interested staff members may
20 make contributions to the PAC and that, if legal, the association can 'gross up' their salaries to
21 offset the contribution."

22 7. NATA subsequently implemented the reimbursement scheme through a payroll
23 deduction program, and the first salary increases and corresponding payroll deductions began in

December 2001. Initially, each participating employee's pay was increased \$3,900 per year, \$3,000 of which was deducted as a contribution to NATA PAC and the additional \$900 intended to cover any tax liability resulting from the increased pay. In 2009, Byer authorized a \$6,500 increase of the PAC contributors' salaries per year, with up to \$5,000 deducted as a PAC contribution and \$1,500 intended to offset tax liability.

8. Byer, in his capacity as a NATA officer and NATA PAC Assistant Treasurer, exercised significant responsibility for administering the reimbursement arrangement between 2003 and 2012, which resulted in twenty (20) NATA employees making \$214,353 in contributions to NATA PAC in their names using NATA corporate funds.

9. Byer contends that he never received any training regarding campaign finance law, that he was a low-level employee when the arrangement was initially approved by his supervisors, and that he was not the person who would have sought legal review at that time. Byer further contends that it is his recollection that none of the periodic professional outside audits of NATA's financial activity over the years noted any problem with the arrangement. In addition, Byer contends that he generally understood that, because the arrangement was voluntary and the employees treated the income as compensation, it was permissible.

V. The pertinent legal principles in this matter are as follows:

1. The Act prohibits corporations from making contributions to a federal political committee (other than independent expenditure-only political committees). 52 U.S.C. § 30118(a) (formerly 2 U.S.C. § 441b(a)); Advisory Op. 2010-11 (Commonsense Ten). It further prohibits any officer of a corporation from consenting to any such contribution by the corporation. *See* 52 U.S.C. § 30118(a) (formerly 2 U.S.C. § 441b(a)); 11 C.F.R. § 114.2(e).

2. The Act also provides that "no person shall make a contribution in the name of another person." 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f); 11 C.F.R. § 110.4(b)(1)(i). That prohibition extends to knowingly permitting one's name to be used to effect the making of a contribution in the name of another. 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f); 11 C.F.R. § 110.4(b)(1)(ii).

VI. Respondent admits to the following violations of the Act:

1. Eric Byer violated 52 U.S.C. §§ 30118(a) (formerly 2 U.S.C. § 441b(a)) and 30122 (formerly 2 U.S.C. § 441f) and 11 C.F.R. §§ 110.4(b)(1)(ii) and 114.2(e).

VII. Respondent will take the following actions:

1. Respondent will cease and desist from violating 52 U.S.C. §§ 30118(a) (formerly 2 U.S.C. § 441b(a)) and 30122 (formerly 2 U.S.C. § 441f) and 11 C.F.R. §§ 110.4(b)(1)(ii) and 114.2(e).

2. Respondent will pay a civil penalty of \$53,600 pursuant to 52 U.S.C. § 30109(a)(5)(A) (formerly 2 U.S.C. § 437g(a)(5)(A)).

VIII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) (formerly 2 U.S.C. § 437g(a)(1)) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

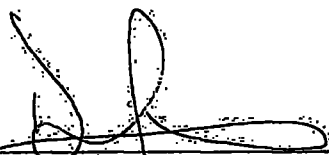
X. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

March 3, 2015
Date


BY:


Daniel A. Petalas
Associate General Counsel
for Enforcement

FOR THE RESPONDENT:

1/14/15
Date

BY:


Scott Thomas, Esq.
Counsel for Eric Byer
Dickstein Shapiro LLP
1825 Eye Street N.W.
Washington, D.C. 20006-5403